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JPMORGAN CHASE BANK, N.A., AN
ACQUIRER OF CERTAIN ASSETS AND
LIABILITIES OF WASHINGTON MUTUAL
BANK FROM THE FEDERAL DEPOSIT
INSURANCE CORPORATION ACTING AS
RECEIVER

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

SEPEHR TORABI,

Plaintiff,

V.

WASHINGTON MUTUAL BANK, CHASE
BANK NA; CITIBANK NA as trustee for
WAMU 2004-AR9, WAMU 2004, DOES 1-25

Defendants.

Case No. 09-CV-02838-JAH-BLM

Hon. John A. Houston

**REQUEST FOR JUDICIAL NOTICE IN
SUPPORT OF MOTION TO DISMISS
FIRST AMENDED COMPLAINT
PURSUANT TO FRCP 12(B)(6)**

DATE: January 30, 2012 [Reserved]
TIME: 2:30 p.m.
CTRM: 11 (2nd Floor)

Action Filed: December 17, 2009

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

Defendants JPMorgan Chase Bank, N.A., an acquirer of certain assets and liabilities of Washington Mutual Bank from the Federal Deposit Insurance Corporation, acting as receiver

1 ("JPMorgan") requests that, in connection with its Motion to Dismiss the First Amended Complaint of
 2 plaintiff Sepehr Torabi ("Plaintiff"), this court take judicial notice, pursuant to Federal Rules of
 3 Evidence §§ 201(b), 201(c), and 201(d), of the following documents:

4 1. A true and correct copy of the Deed of Trust ("DOT") concerning the property located
 5 at 3253 Caminito East Bluff #26, La Jolla, California ("Subject Property") that was recorded with the
 6 San Diego County Recorder's Office on May 17, 2004, as instrument number 2004-0444813, attached
 7 hereto as Exhibit 1.

8 2. A true and correct copy of the Assignment of Deed of Trust concerning the DOT that
 9 was recorded with the San Diego County Recorder's Office on January 28, 2009 as instrument
 10 number 2009-0040034, attached hereto as Exhibit 2.

11 3. A true and correct copy of the Notice of Default and Election to Sell Under Deed of
 12 Trust ("NOD") concerning the DOT that was recorded with the San Diego County Recorder's Office
 13 on January 28, 2009 as instrument number 2009-0040035, attached hereto as Exhibit 3.

14 4. A true and correct copy of the Notice of Trustee' Sale concerning the DOT and the
 15 Subject Property that was recorded with the San Diego County Recorder's Office on May 1, 2009 as
 16 instrument number 2009-0229296, attached hereto as Exhibit 4.

17 5. A true and correct copy of the Trustee's Deed Upon Sale concerning the DOT and the
 18 Subject Property that was recorded with the San Diego County Recorder's Office on July 30, 2009 as
 19 instrument number 2009-0424260, attached hereto as Exhibit 5.

20 6. A true and correct copy of the second Assignment of Deed of Trust concerning the
 21 DOT that was recorded with the San Diego County Recorder's Office on May 9, 2011 as instrument
 22 number 2011-0238395, attached hereto as Exhibit 6.

23 7. A true and correct copy of the second Trustee's Deed Upon Sale concerning the DOT
 24 and the Subject Property that was recorded with the San Diego County Recorder's Office on May 9,
 25 2011 as instrument number 2011-0238396, attached hereto as Exhibit 7.

26 8. A true and correct copy of the Office of Thrift Supervision Order directing FDIC to act
 27 as Receiver of Washington Mutual, attached hereto as Exhibit 8.

28 9. A true and correct copy of the Purchase and Assumption Agreement Whole Bank

1 Among Federal Deposit Insurance Corporation, Receiver of Washington Mutual Bank, Henderson,
 2 Nevada, Federal Deposit Insurance Corporation ("FDIC") and JP Morgan Chase Bank, National
 3 Association, dated September 25, 2008 is attached hereto as Exhibit 9. The complete copy as
 4 executed by the parties is stored and made available by the FDIC on its website as
 5 www.fdic.gov/about/freedom/Washington_Mutual_P_and_A.pdf.

6 On a motion to dismiss, a court may take judicial notice of matters of public record in
 7 accordance with Federal Rule of Evidence ("FRE") 201 without converting the motion to dismiss to a
 8 motion for summary judgment. *Lee v. City of Los Angeles*, 250 F.3d 668, 688-689 (9th Cir. 2001)
 9 citing *Mack v. South Bay Beer Distributors, Inc.*, 798 F.2d 1279, 1282 (9th Cir. 1986). Moreover,
 10 courts may take judicial notice of documents outside of the complaint that are capable of accurate and
 11 ready determination by resort to sources whose accuracy cannot reasonably be questioned. Fed. R.
 12 Evid. 201(d); *Wietschner v. Monterey Pasta Co.*, 294 F. Supp. 2d 1117, 1109 (N.D. Cal. 2003). Courts
 13 can take judicial notice of such matters when considering a motion to dismiss. *Id.*; *MGIC Indem. Corp.*
 14 v. *Weisman*, 803 F.2d 500, 504 (9th Cir. 1986).

15
 16 Respectfully submitted,

17 DATED: December 5, 2011

ALVARADOSMITH
 A Professional Corporation

18
 19 By: /s/ Theodore E. Bacon

THEODORE E. BACON
 MIKEL A. GLAVINOVICH
 IRMA L. MARTINEZ
 Attorneys for Defendant
 JPMORGAN CHASE BANK, N.A., AN
 ACQUIRER OF CERTAIN ASSETS AND
 LIABILITIES OF WASHINGTON MUTUAL
 BANK FROM THE FEDERAL DEPOSIT
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 RECEIVER

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years and not a party to the within action. My business address is ALVARADOSMITH, APC 633 W. Fifth Street, Suite 1100, Los Angeles, CA 90071.

On December 5, 2011, I SERVED THE FOREGOING DOCUMENT(S) DESCRIBED AS: REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF MOTION TO DISMISS FIRST AMENDED COMPLAINT PURSUANT TO FRCP 12(B)(6) on the interested parties in this action.

by placing the original and/or a true copy thereof enclosed in (a) sealed envelope(s), addressed as follows:

Sepehr Torabi, *Pro Se*
3253 Caminito East Bluff #26
La Jolla, CA 92037
Tel. (858) 518-1515

- BY ELECTRONIC SERVICE:** Pursuant to CM/ECF System, registration as a CM/ECF user constitutes consent to electronic service through the Court's transmission facilities. The Court's CM/ECF system sends an email notification of the filing to the parties and counsel of record listed above who registered with the Court's CM/ECF system.
- BY OVERNIGHT MAIL:** I deposited such documents at the Overnite Express or FedEx Drop Box located at 633 W. Fifth Street, Los Angeles, California 90071. The envelope was deposited with delivery fees thereon fully prepaid.
- BY REGULAR MAIL:** I placed such envelope with postage thereon fully paid in the United States mail at Los Angeles, California. I am "readily familiar" with this firm's practice of collecting and processing correspondence for mailing. It is deposited with U.S. Postal Service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than 1 day after date of deposit for mailing in affidavit.
- (Federal) I declare that I am employed in the office of a member of the Bar of this Court, at whose direction the service was made.

Executed on December 5, 2011, at Los Angeles, California.

Kelly Crosby